

***United States Court of Appeals
for the Second Circuit***



APPENDIX

76-1334

In the
United States Court of Appeals
FOR THE SECOND CIRCUIT

UNITED STATES OF AMERICA,

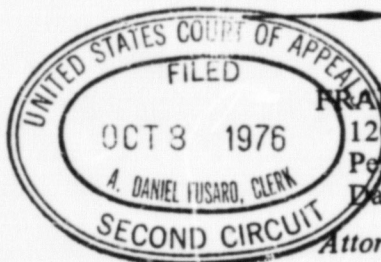
against

CHARLES S. CHRISTOPHER,

Appellant.

*On Appeal from the United States District Court
for the Southern District of New York*

**APPENDIX TO
JOINT BRIEF AND ARGUMENT
ON BEHALF OF CHARLES S. CHRISTOPHER**



FRANK S. WRIGHT
1200 Main St.
Penthouse, Main Tower Bldg.
Dallas, Texas 75202
Attorney for Charles S. Christopher

PAGINATION AS IN ORIGINAL COPY

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(12) STATISTICAL RECORD	COSTS	DATE	NAME OR RECEIPT NO.	REC.	DISB.
J.S. 2 mailed	Clerk				
J.S. 3 mailed 1 st and 2 nd	Marshal				
Violation	Docket fee				
Title 18					
Sec. 371, 3511					
law. interception of communication. (Cts. 2-7)					
consp. so to do. (Ct. 1)					
(Seven Counts)					

DATE	PROCEEDINGS
8-27-75	Filed indictment.
9-2-75	Christopher (atty. present) Pleads not guilty. Deft. ordered photographed and fingerprinted. Deft. R.O.R. Geyer (atty. present) Pleads not guilty thru his atty. Bail \$10,000. PRB. continued. Case assigned to Judge Griesa for all purposes. Werker, J.
9-4-75	CHARLES S. CHRISTOPHER: Filed Notice of Appearance of Atty, Frank S. Wright, Penthouse - 1200 Main Street, Dallas, Texas 75202 Tel# 214-651-9561.
9-4-75	RICHARD GEYER: Filed Notice of Appearance of Atty, Henry Putzel, 140 West 62nd St. N.Y.C. 10023 Tel# 256-7144.
9-4-75	Filed Court's Notice of Readiness for Trial on or after 9-17-75.
9-26-75	PRE-TRIAL CONFERENCE WITH MR. GEYER, A.
9-20-75	Transcript of record of proceedings, dated Sept. 26, 1975

— OVER —

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12-1-75.....Motion denied without prejudice to renewal ~~***Griesa, J.***~~

1-28-76 C.S. CHRISTOPHER - Filed memo endorsed on ALL motions filed 12-1-75 Motion denied without prejudice to renewal if agreement with Government is not reached...
Griesa, J.... Notice to U.S. Atty. (No Local Counsel)

1-1-76 Filed affdvt. of John Buckley dated 2-25-76

1-1-76 Filed affdvt. of Robert Scigalski dtd 2-26-76

1-76 Filed memorandum of Govt. in opposition to pre-trial motions of the defts...
4-76 Filed transcript of record of proceedings dated Jan 26, 1976

-13-76 C.S. CHRISTOPHER - Filed memorandum of authorities in support of motion to suppress.

4-26-76 Filed Govt's memorandum in support of admission by deft. Christopher.

-26-76 Filed Govt's memorandum of law on issue of misconduct to the jury.

-26-76 CHARLES S. CHRISTOPHER - Filed defts requested questions for prospective jurors.

-26-76 CHARLES S. CHRISTOPHER - Filed defts requested instruction

5-6-76 CHARLES S. CHRISTOPHER - Filed defts motion for additional peremptory challenges

27-76 Filed Govt's memorandum concerning admissibility of certain charts

27-76 Filed deft Geyer's memorandum of law in support of pre-trial motions

27-76 R. GEYER - Filed affdvt. & notice of motion to dismiss the indictment, to suppress evidence etc.

27-76 C.S. CHRISTOPHER - Filed memorandum in support of motion to suppress

—Cont'd on Page 3—

5 JUL 29 1976
★ DANIEL P. CARP, CLERK

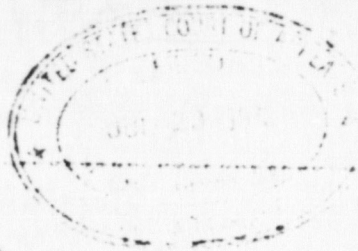
For Defendant:

VS

JUDGE TPG

CHARLES S. CHRISTOPHER

CLERK'S CERTIFICATE



I, RAYMOND F. BURGHARDT, Clerk of the District Court of the United States for the Southern District of New York, do hereby certify that the certified copy of docket entries lettered A- R, and the original filed papers numbered 1 thru 29, and exhibits _____, inclusive, constitute the record on appeal in the above entitled proceeding of the following nature:

DATE FILEDPROCEEDINGS

IN WITNESS WHEREOF, I have signed this certificate and caused it to be hereunto affixed, at the City of New York, in the Southern District of New York, this 29 day of JULY, in the year of our Lord, One thousand nine hundred and seventy, six, and of the Independence of the United States, the 201 year.

Raymond F. Burghardt
Clerk of the Court

FINED \$10.00 TO BE PAID ON OR
before September 30, 1976. Counts 1 and 2 are dismissed
upon motion by defendant's counsel with the consent
of the Government. GRIESA, J. Entered on: 6-30-76.

6-27-76 R. GEYER - Filed Judgment (Atty. Henry Putzel, III, present) The imposition of sentence is suspended and defendant is placed on Probation for a period of TWO YEARS on each of counts 1 and 7 to run concurrent with each other. Counts 3, 4 and 6 are dismissed upon motion by defendant's counsel with the consent of the Government. GRIESA, J. Entered on: 6-30-76.

7-9-76 (CHRISTOPHER, CHARLES S. - Filed DEFTS NOTICE OF APPEAL to USCA
(GEYER, RICHARD 2nd Circuit from Judgment entered on 6-29-76, m-n to: Atty. for Defts, Frank S. Wright, 1200 Main St. Penthouse Main Twr. Bldg. Dallas, Texas 75202 - copy to US Atty.

A TRUE COPY

RAYMOND F. BURGHARDT, Clerk

By *G. E. Thompson*

Deputy Clerk

D. C. 100 Criminal Contempration Sheet

12-1-75 C.S. CHRISTOPHER - Filed Motion for witness statements or reports

12-1-75 C.S. CHRISTOPHER - Filed motion for production and discovery of evidence.

12-1-75 C.S. CHRISTOPHER - Filed motion to increase C. I. sentence

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Pre-Trial Conference
Honorable Thomas P. Griesa
September 26, 1975

[7] THE COURT: You can file your motions by November 30th.

MR. PUTZEL: That would be December 1st — November 30th being a Sunday.

THE COURT: December 1st; okay.

MR. PUTZEL: That is just a date on which motions are due, is that correct, your Honor?

THE COURT: Yes.

MR. PUTZEL: May I talk briefly — I realize, your Honor, that you have bookings beyond that, as we talked to Mr. Davis. I would like to make a request on my behalf, if I may — I was assigned in this case when my client was arrested in March of this year, 1975, and I accepted the assignment in anticipation of this summer's disposition, because, as you know, I have academic obligations. My request would be for a trial starting after the middle of April. I recognize that is something of an imposition because of the length of time that is away from now. On the other hand, I understand that your Honor has a very heavy calendar this Fall, and with a large case starting in January. I make my request simply because —

THE COURT: There is no objection so far as I am concerned.

[8] MR. DAVIS: I have no objection to an April date, your Honor, but I would like to say this —

MR. WRIGHT: We would specifically waive any right to a speedy trial, and we would agree to any date that is agreeable.

THE COURT: Well, let us keep that in mind — that is a long way off, but let us work towards that.

MR. DAVIS: I would like to say two things about the trial date, your Honor: The first is that I think all of us agreed yes-

terday that it might make good sense to have a hearing, if there is to be a hearing on the suppression point prior to the trial.

THE COURT: Oh, I am sure we will do that.

MR. PUTZEL: Yes.

MR. DAVIS: The second thing is, the government's case will involve quite a large number of witnesses, many of whom will have to come from outside of New York and so I would like to have as much advance notice as I could.

THE COURT: Oh, sure, we will work on that.

MR. PUTZEL: As to the hearing, I would like to accommodate, your Honor, after we submit [9] papers and the government has responded, I think we could leave it on a basis that if a hole opens up in your Honor's calendar, I would be ready to go with the motion, the hearing, at any time on very short notice.

THE COURT: I think what we will do is after I get the materials in, we will set a mutually convenient date.

MR. PUTZEL: Oh, fine.

THE COURT: Thanks a lot.

MR. DAVIS: Your Honor, can the government have three weeks to respond to the motion?

THE COURT: I guess you can have three weeks to respond to the motion, as long as we are not going to trial.

MR. PUTZEL: Do you want to fix a date now for a trial, or do you want —

THE COURT: Well, I would like to leave that a little bit open if we could.

FOR THE SOUTHERN DISTRICT OF NEW YORK
New York Division

United States of America

v.

Charles S. Christopher and Richard Geyer

INDICTMENT
75 CR. 854 TPG

MOTION FOR PRETRIAL HEARING

To the Honorable Judge of Said Court:

NOW COMES Charles S. Christopher, defendant in the above entitled and numbered cause, by and through his attorney of record, Frank S. Wright, and would respectfully request that the Court advise him, upon the filing of this request, of a specific date and time, in advance of trial upon the merits, for the hearing of all pretrial motions filed in order to promote a fair and expeditious trial of this cause.

WHEREFORE, PREMISES CONSIDERED, the defendant prays that this motion in all things be granted.

Respectfully submitted,

Frank S. Wright (214) 651-9561
Penthouse; Main Tower
1200 Main Street
Dallas, Texas 75202
Attorney for Charles S. Christopher,
Defendant.

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK
New York Division

United States of America

v.

Charles S. Christopher and Richard Geyer

INDICTMENT
75 CR. 854 TPG

MOTION TO SUPPRESS EVIDENCE SEIZED
PURSUANT TO A SEARCH WARRANT

To the Honorable Judge of Said Court:

NOW COMES Charles S. Christopher, the Defendant in the above styled and numbered cause, by and through his attorney of record, Frank S. Wright, relying upon the Fourth Amendment to the Constitution of the United States and in compliance with Rules 12 and 41 of the Federal Rules of Criminal Procedure; and respectfully moves this Court to suppress all items seized during the search of Room 1332 of the Plaza Hotel, 59th St. and 5th Avenue, New York, N.Y., from being introduced into evidence in the trial of this cause for the following reasons:

I.

That pursuant to a certain search warrant, Federal Agents conducted a search at Room 1332, Plaza Hotel, 59th St. and 5th Avenue, New York, N.Y. on the 18th day of March, 1975. That during the search, numerous items were seized which were located in the Room 1332 which was registered in the name of Richard Geyer. That contained in the items seized during the search of said Room 1332 are items which are the property of the Defendant, Charles S. Christopher.

II.

That the search warrant, under which authority the search of said room was conducted, was secured by the affidavit of John Buckley, and said affidavit is based exclusively on hearsay information obtained from an unnamed informant.

III.

That certain statements contained in the affidavit of John Buckley, specifically:

"While present in Room 1334, the informant heard 'feedback' through the Panasonic radio receiver situated on the table in Room 1332 indicating that an electronic, mechanical or other device designed to intercept communications was already in place and operating. Informant stated that the 'feedback' was coming through the receiver from Room 1334."

are false and are material to the establishment of probable cause for the issuance of said search warrant.

IV.

That certain statements contained in the affidavit of John Buckley are hearsay upon hearsay and no substantial basis for crediting such hearsay on hearsay statements is presented, nor is there contained therein any inference that the source of the statements was generally trustworthy or that the information was obtained in a reliable way.

V.

That, in the alternative should the statements in paragraph III be established to be true, the information contained in the affidavit of John Buckley is based upon a primary illegality performed by the informant and therefore said search warrant based upon the affidavit of John Buckley is a direct result of said primary illegality.

WHEREFORE, PREMISES CONSIDERED, the Defendant prays that based upon the reasons set forth that all items seized pursuant to a search of Room 1332, Plaza Hotel 59th St. and 5th Avenue, New York, N.Y., be suppressed from introduction into evidence in the trial of this cause.

Respectfully submitted,

Frank S. Wright (214) 651-9561
Penthouse; Main Tower
1200 Main Street
Dallas, Texas 75202
Attorney for Charles S. Christopher,
Defendant.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

Charles S. Christopher and Richard Geyer,
Defendants.

NOTICE OF MOTION
75 Cr. 854 (TPG)

SIR:

PLEASE TAKE NOTICE, that, upon the affidavit of HENRY PUTZEL, III and the Memorandum of Law submitted herewith, and upon all of the proceedings held herein, the undersigned, on behalf of the defendant RICHARD GEYER, will move this Court, at a time and place to be designated by the Hon. Thomas P. Griesa, United States District Judge, for an Order granting the following relief:

A. Dismissing the Indictment herein as amounting to the selective and discriminatory enforcement of the federal wiretap statutes;

B. Dismissing the Indictment herein as a violation of the defendant's due process rights in light of the unlawful participation of a government informant in furnishing the unlawful devices which were essential means of committing the crimes charged herein; or, in the alternative;

C. Suppressing evidence seized during an unlawful warrantless search of the defendant's hotel room incident to his arrest; and

D. Suppressing evidence of a statement made before a United States Magistrate by the defendant Geyer.

YOURS, etc.

HENRY PUTZEL, III
Counsel for the defendant
Richard Geyer
Office address and telephone:
140 West 62 Street
New York, New York 10023
(212) 956-7144

Dated: New York, New York
February 6, 1976.

V.

Richard Geyer and Charles S. Christopher,
Defendants.

AFFIDAVIT

75 Cr. 854 (TPG)

STATE OF NEW YORK)

) SS.

CITY OF NEW YORK)

HENRY PUTZEL, III, being duly sworn, deposes and says:

1. I am an attorney-at-law and a member in good standing of the bar of this Court. I am assigned counsel for the defendant **RICHARD GEYER** and make this affidavit, on information and belief, in support of the defendant Geyer's motions to dismiss the indictment herein or, in the alternative, to suppress certain evidence which the Government intends to offer at trial. In support of the motions made herein, I also respectfully refer the Court to the Memorandum of Law which accompanies this affidavit.

INTRODUCTION

2. The Indictment herein charges the defendants in seven counts with conspiracy to intercept the private conversations of various individuals by means of electronic or mechanical devices and substantive offenses in connection therewith, all in violation of Title 18, United States Code, Sections 371 and 2511. The defendant Geyer is charged in Counts Three, Four, Six and Seven with intercepting such communications and attempting to do so, and the defendant Christopher is charged

in Counts Two and Five with "procuring another person" to commit such offenses. By references to Count One, the conspiracy count, it is clear that the Government contends that Geyer was such "other person."

3. From information provided informally by the Government it is clear that the Government's theory of its case will be that the defendant Christopher, a Texas businessman, hired the defendant Geyer to overhear, by electronic means, the conversations of business competitors of Christopher, both at the Plaza Hotel, 59th Street and Central Park South, and at the Chemical Bank, 55 Water Street, New York City. It is the defendant Geyer's contention that the entire prosecution should not and cannot proceed in that this case is a classic instance of selective enforcement of the laws which amounts to a violation of the defendants' rights under the due process clause of the Fifth Amendment. Moreover, even by the Government's own account of the facts herein, a Government agent supplied the unlawful electronic devices which were the alleged means of committing the crimes charged herein. In the event that the Court denies the motion to dismiss this indictment, the defendant Geyer respectfully urges that evidence to be offered at trial be suppressed which a) was obtained as a direct or indirect result of an unlawful search of Geyer's hotel room incident to his arrest on March 18 1975 and b) was obtained as a direct or indirect result of a statement improperly received from the defendant Geyer during his arraignment before a United States Magistrate on March 19, 1975.

THE MOTIONS TO DISMISS

4. The gist of the defendant's motion to dismiss this indictment is simply that the United States Government, the most notorious violator of the federal wiretap and electronic surveillance statute, should not be permitted to prosecute private individuals for alleged violations of the very statute which Gov-

ernment agents violate with impunity but without criminal sanction. The factual basis for the motion is a matter of public record and may be judicially noticed: federal law enforcement agencies, particularly the F.B.I. and the C.I.A., have made repeated unlawful use of wiretaps, bugs and other unlawful electronic devices in flagrant violation of the very statutes invoked in the instant prosecution; not one indictment has been returned as a result of such official actions, to the best of your deponent's knowledge. Precious few indictments have, in fact, been returned against private citizens upon such statute. In short, the defendant Geyer is being prosecuted in an overtly discriminatory fashion: an entire class of law enforcement officers is receiving *de facto* immunity from prosecution for the same electronic surveillance offenses for which the defendant is being prosecuted. Such double standard is a classic instance of selective enforcement of the law and requires the dismissal of the instant charges.

5. Should the Government dispute the factual premise for the motion to dismiss, the defendant Geyer respectfully requests a hearing to determine the facts alleged above. It is respectfully submitted, however, that no such hearing will be necessary: facts amassed in hearings before the Select Senate Committee on the Federal Bureau of Investigation and the Central Intelligence Agency were supplied to the Congress primarily by those agencies. It is submitted that, should such statistics be required for a just disposition of the instant motion, the Government is best able to furnish such data. In particular, the Government should be required to advise the Court of the number of prosecutions brought against law enforcement personnel under the relevant statute; the number of known instances in which government agents have actually violated such statutes; and the number of prosecutions brought against private citizens under the relevant statutes.

6. An additional — and equally compelling — basis exists

for the dismissal of the instant charges. From affidavits filed by the Government prior to the indictment herein, it is clear that the electronic "bugs" which are the crux of the charges were, by the Government's own account of the facts, furnished by a paid informant of the Government. In an affidavit in support of a Search Warrant, presented to a United States Magistrate on the evening of March 18, 1975, Criminal Investigator John Buckley stated that a "previously reliable informant" delivered and sold two transmitters to Geyer on the morning of March 18, 1975. The Government has advised me that it will attempt to prove that the same two transmitters were later used in an attempt to intercept third party conversations. In short, the Government itself apparently supplied the illegal devices with which Geyer is now charged with violating the law. This conceded fact, taken in the context of the selective enforcement of the electronic surveillance statute, affords this Court with ample basis for dismissing the instant charge on due process grounds. The legal argument in support of such contention is set forth in the accompanying memorandum, to which the Court is respectfully referred.

THE MOTION TO SUPPRESS

7. Should the Court deny the above motion, the defendant Geyer respectfully moves to suppress evidence unlawfully seized from the defendant's hotel room incident to a warrantless arrest on the evening of March 18, 1975. The pertinent facts are simply stated by reference to the complaint filed against Geyer, a copy of which is appended hereto and made a part hereof.

8. At approximately 10:45 a.m. on March 18, 1975, the informant allegedly delivered two transmitters to the defendant Geyer at his hotel room at the Plaza Hotel. Thereafter, the informant notified the Federal Bureau of Investigation of his actions, and Special Agents were dispatched to the Plaza Hotel. Although efforts were apparently commenced to obtain a search

warrant based upon the information furnished by the informant, it is clear that at 6:00 p.m. the same evening, when Geyer was arrested and his room searched, no arrest or search warrant had been issued. In point of fact, the Government's Complaint sets forth the facts relating to the search as succinctly as possible:

(1) Deponent arrested the defendants in Room 1332, Plaza Hotel, 59th Street and 5th Avenue, New York, New York at approximately 6 P.M. on March 18, 1975 based on information received from a previously reliable informant for a violation of Title 18 U.S.C. §2511. *During a search incident to defendants' arrest*, deponent opened a closet door in Room 1332, which is directly adjacent to Room 1334. On the closet wall, deponent observed an electronic, mechanical or other device designed to intercept wire and oral communications emanating from Room 1334. Also observed by deponent at this time was at least one tape recorder. This tape recorder was situated within a few inches of a radio-receiver, which deponent also observed in Room 1332.

Thus, the Complaint discloses that Geyer was arrested by F.B.I. agents acting without a warrant on the basis of information supplied by the informant; that the entire hotel room was searched incident to the arrest; and that a closet in the hotel room was opened during the search of the room. Moreover, at the time of the arrest, the defendant was standing in the doorway to his hotel room, and the arresting agents were not even required to enter the room to effect the arrest. On these facts, it is clear that the warrantless search of Geyer's room was effected before the issuance of any search warrant and was independent of any subsequently-conferred authority to search. It is therefore clear that the search of the hotel room and the seizure of items therein were in blatant violation of Geyer's Fourth Amendment rights and that the evidence derived therefrom (including all "fruits" of the illegal search) should be suppressed.

THE MOTION TO SUPPRESS STATEMENTS
MADE BY THE DEFENDANT BEFORE A
UNITED STATES MAGISTRATE

9. The defendant Geyer was arrested on the evening of March 18, 1975 and was incarcerated overnight. On the morning of March 19, 1975, he was arraigned before a United States Magistrate upon the complaint attached herewith. Although he was given full advice of his constitutional right to remain silent, Geyer made certain statements during the course of his application to the Court for reasonable bail. I am advised by the Government that it will attempt to offer such statements either as admissions or as false exculpatory statements during its case in chief. It is submitted that the statements were made for the purpose of advising the United States Magistrate about the defendant's employment, background and other similar information and, in fact, were elicited by the United States Magistrate to assist the Court in fixing reasonable bail. Use of such statements against Geyer places him (and all defendants similarly situated) in the intolerable position of having to choose between the full enjoyment of their Fifth Amendment right to remain silent and their Sixth Amendment right to reasonable bail. The statement should therefore be suppressed.

WHEREFORE, for the reasons stated herein and in the accompanying Memorandum of Law, the indictment herein should be dismissed, in the alternative, should the Court deny the Motion to Dismiss, the evidence seized from the defendant's possession and statements improperly received from the defendant should be suppressed.

HENRY PUTZEL, III
Attorney for the defendant
Richard Geyer

Sworn to before me this 6th day of February, 1976.

ANN M. E. MALONEY

Notary Public, State of New York No. 31-7684793 —

New York County — Commission Expires March 30, 1978

Approved: DOMINIC F. AMOROSA
Assistant United States Attorney

Before: HONORABLE MARTIN D. JACOBS
United States Magistrate
Southern District of New York

United States of America

v.

Dale Tolbert and Richard Geyer,

Defendants.

COMPLAINT

Violation of 18 U.S.C. §2511, 18 U.S.C. §2

SOUTHERN DISTRICT OF NEW YORK, ss.:

ROBERT A. SCIGALSKI, being duly sworn, deposes and says that he is a Special Agent of the Federal Bureau of Investigation, and charges as follows:

On or about the 18th day of March, 1975, in the Southern District of New York,

DALE TOLBERT and RICHARD GEYER,
the defendants, unlawfully, wilfully and knowingly did intercept, and endeavor to intercept wire and oral communications which were protected communications within the meaning of Title 18, U.S.C. §2510, *et seq.*

The bases for deponent's knowledge and for the foregoing charge are, in part, as follows:

Investigation in ordinary course of business which revealed the following:

(1) Deponent arrested the defendants in Room 1332, Plaza Hotel, 59th Street and 5th Avenue, New York, New York at

approximately 6 P.M. on March 18, 1975 based on information received from a previously reliable informant for a violation of Title 18 U.S.C. §2511. During a search incident to defendants' arrest, deponent opened a closet door in Room 1332, which is directly adjacent to Room 1334. On the closet wall, deponent observed an electronic, mechanical or other device designed to intercept wire and oral communications emanating from Room 1334. Also observed by deponent at this time was at least one tape recorder. This tape recorder was situated within a few inches of a radio-receiver, which deponent also observed in Room 1332.

(2) Statement to deponent by Peter Nottage in which Nottage indicated that he was in the Insurance Brokerage business; that on March 18, 1975, he had rented Room 1334 at the Plaza Hotel and that he had given no one permission to intercept his or anyone else's wire or oral communications which took place in Room 1334 of the Plaza Hotel.

(3) Statement to deponent by the defendant DALE TOLBERT that Mr. Chris Christopher, who was Mr. TOLBERT's employer, had told Mr. Tolbert, on March 18, 1975, among other things, that Mr. Christopher wished to obtain information, with the assistance of the defendant, RICHARD GEYER, on Mr. Peter Nottage and that Mr. TOLBERT was to assist Mr. GEYER in this endeavor.

WHEREFORE, deponent prays that a warrant may issue for the apprehension of the above named defendant and that they may be arrested and imprisoned, or bailed, as the case may be.

ROBERT A. SCIGALSKI

Sworn to before me this 19th day of March, 1975

UNITED STATES DISTRICT COURT
For The
SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

Room 1334, Plaza Hotel
59th St. and 5th Ave., New York, N. Y.

Magistrate's Docket No. 75, Case No. 934

SEARCH WARRANT

To Any Special Agent of the Federal Bureau of Investigation
or any Criminal Investigator

Affidavit having been made before me by JOHN BUCKLEY that he has reason to believe that on the premises known as Room 1334, Plaza Hotel, 59th St. and 5th Ave., New York, New York, in the Southern District of New York, there is now being concealed certain property, namely electronic, mechanical and other devices which are designed to intercept wire and oral communications which are property designed and intended for use or which is and has been used as the means of committing a criminal offense pursuant to Title 18 §§ 371; 2511 and as I am satisfied that there is probable cause to believe that the property so described in being concealed on the premises/person above described and that the foregoing grounds for application for issuance of the search warrant exist.

You are hereby commanded to search forthwith the place/person named for the property specified, serving this warrant and making the search in the daytime at any time in the day or night and if the property be found there to seize it, leaving a copy of this warrant and a receipt for the property taken,

and prepare a written inventory of the property seized and return this warrant and bring the property before me within ten days of this date, as required by law.

A TRUE COPY

Dated this 18th day of March, 1975.

MARTIN D. JACOBS,
U.S. Magistrate.

RETURN

I received the attached search warrant,
19....., and have executed it as follows:

On, 19..... at o'clock M,
I searched the premises described in the warrant and

I left a copy of the warrant with
together with a receipt for the items seized.

The following is an inventory of property taken pursuant to
the warrant:

This inventory was made in the presence of
and

I swear that this Inventory is a true and detailed account of
all the property taken by me on the warrant.

Subscribed and sworn to and returned before me this
day of, 19.....

.....
U. S. Magistrate.

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

Room 1332, Plaza Hotel,
59th Street and Fifth Avenue, New York, N. Y.

AFFIDAVIT FOR SEARCH WARRANT

BEFORE HON. MARTIN D. JACOBS, U. S. Magistrate,
U. S. Courthouse, Foley Square, New York, N. Y. 10007.

The undersigned being duly sworn deposes and says that he has reason to believe that on the premises known as Room 1332, Plaza Hotel, 59th Street and Fifth Ave., New York, New York, in the Southern District of New York there is now being concealed certain property, namely electronic, mechanical or other devices which are designed to intercept wire and oral communications which is property designed or intended for use or which is and has been used as the means of committing a criminal offense pursuant to 18 U.S.C. §371; 2511.

And that the facts tending to establish the foregoing grounds for issuance of a Search Warrant are as follows:

Statement to affiant from a previously reliable informant, who has in the past supplied information to federal law enforcement officials which has resulted in the federal felony convictions of seven individuals. The informant advised as follows:

Informant advised affiant that on March 18, 1975, he was telephonically contacted by Richard Guyer [sic] at approximately 10:00 A.M. Guyer [sic] asked the informant to secure several electronic transmitters and to bring them to Room 1332, Plaza

Hotel, 59th Street and Fifth Avenue, New York, N. Y. The informant brought two transmitters to Room 1332. When he arrived in Room 1332, at approximately 10:45 A.M., Richard Geyer and an unidentified male were present. Informant gave two transmitters to Geyer. On a table in Room 1332 the informant observed a Panasonic RF 888 Radio Receiver. At this time Geyer stated to the informant that Geyer and the unidentified male were in the process of endeavoring to intercept the oral communications in Room 1334, which is adjacent to Room 1332. While present in Room 1334, the informant heard "feedback" through the Panasonic radio-receiver situated on the table in Room 1332 indicating that an electronic, mechanical or other device designed to intercept communications was already in place and operating. Informant stated that the "feedback" was coming through the receiver from Room 1334. Geyer stated to informant that Geyer needed the transmitters, which informant had brought, to use in placing a bug in an unidentified conference room.

JOHN BUCKLEY

Sworn to before me this day of March, 1975.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

Charles S. Christopher and Richard Geyer,
Defendants.

AFFIDAVIT
75 Cr. 854 (TPG)

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:
SOUTHERN DISTRICT OF NEW YORK)

JOHN BUCKLEY, being duly sworn, deposes and says:

1. I am a Criminal Investigator in the office of the United States Attorney for the Southern District of New York. I am making this affidavit at the request of Assistant United States Attorney Frederick T. Davis in order to state the time sequence of certain events on March 18, 1975. At the request of Mr. Davis, I am including in this affidavit only facts relating to the time and sequence of those events; I am not attempting to include in this affidavit my entire recollection of the facts of that day.

2. At approximately 1:30 P.M. on March 18, 1975, I turned to my office in the former offices of the United States Attorney in the United States Courthouse, and received a message that a man — hereinafter referred to as "the informant" — had called me, and that I should return his call. Very shortly thereafter, I spoke by telephone with the informant, who related to me certain facts. I immediately thereafter contacted members of the staff of the United States Attorney, and later that afternoon I aided Assistant United States Attorney Dominic Amorosa in the preparation of an application for a search

warrant based upon the facts given to me by the informant. At approximately 5 P.M., Mr. Amorosa and I went to Room 115 in the United States Courthouse and presented the application for a search warrant to United States Magistrate Martin Jacobs. At some point shortly prior to 5:30 P.M., Magistrate Jacobs signed a search warrant calling for the search of Room 1332 at the Plaza Hotel.

3. At 5:30 P.M., I met my associates Carl Bogan and Thomas Doonan, and we proceeded in two separate cars to the Plaza Hotel. The three of us arrived at the hotel at approximately 6 P.M., and at some point between 6 P.M. and approximately 6:15 P.M. I personally delivered to Federal Bureau of Investigation Special Agents Robert Scigalski, Donald Bullard and Edwir Petersen a copy of the search warrant that had been signed by Magistrate Jacobs. I gave them the search warrant in or in front of Room 1332 of the Plaza Hotel, where the agents were engaged in interviewing various individuals.

4. Soon after my original conversation with the informant, I had telephoned the regional office of the Federal Bureau of Investigation and spoke with Special Agent Robert Hartman. At that time, Mr. Hartman told me that he would send Special Agents of the Federal Bureau of Investigation to the Plaza Hotel to maintain surveillance of activities there. On several occasions during the afternoon of March 18, 1975, I was present when Assistant United States Attorney Dominic Amorosa spoke by telephone with Mr. Hartman. In particular, immediately after the signing of the search warrant by Magistrate Jacobs between 5:00 and 5:30 P.M., Amorosa telephoned Hartman from the office of the United States Magistrate, informed him that the search warrant had been issued, and asked him to relate this fact to the agents in the Plaza Hotel.

5. In recollecting these events, I have referred to my own log of the events of that day, and have consulted Messrs. Doonan

and Bogan and contemporaneous logs kept by them. All of us are in agreement with respect to the general facts contained in this affidavit, and in particular that the search warrant was signed prior to 5:30 and was delivered to the F.B.I. agents at the Plaza Hotel shortly after 6:00 P.M.

JOHN BUCKLEY

Sworn to before me this 25th day of February, 1976.

JEANETTE ANN GRAYEB

Notary Public, State of New York, No. 24-1541375

Qualified in Kings County

Commission Expires March 30, 1977

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

United States of America

v.

Charles S. Christopher and Richard Geyer,
Defendants.

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:
SOUTHERN DISTRICT OF NEW YORK)

AFFIDAVIT
75 Cr. 854 (TPG)

ROBERT SCIGALSKI, being duly sworn, deposes and says:

1. I am a special Agent with the Federal Bureau of Investigation, and as such I am empowered to investigate violations of federal criminal laws, including 18 United States Code, Section 2511. I make this affidavit at the request of Assistant United States Attorney Frederick T. Davis in order to state the time sequence of certain events on March 18, 1975. At the request of Mr. Davis, this affidavit does not contain all my recollection of the events of which I have knowledge that occurred on that date, but only those relating to the sequence of certain events.

2. During the afternoon of March 18, 1975, I was told by Special Agent Robert Hartman to proceed to the Plaza Hotel, New York City, and to set up surveillance on Room 1332 of that hotel and its possible occupants.

Shortly thereafter, I proceeded to the hotel, and, after discussions with the security personnel at the hotel, at 5:15 P.M. I and agents Petersen, Conway and Bullard installed ourselves in Room 1335, across the hall from Room 1332 and began

surveillance. From Room 1335, we could see the door to Room 1332. We also had available in Room 1335 a telephone, by which means we maintained communication with Special Agent Hartman.

3 During our conversation with Special Agent Hartman, Hartman informed us that the office of the United States Attorney was preparing an application for a search warrant to search the contents of Room 1332. At some time prior to 6 P.M. I was told by Special Agent Hartman that he had just spoken with Assistant United States Attorney Amorosa, and that a search warrant for the search of Room 1332 was on its way to us and would be delivered to the Plaza Hotel within minutes.

4. At 5:45 P.M. I observed two white males, whom I subsequently identified as Richard Geyer and Dale Tolbert, enter Room 1332. Three minutes later, Tolbert left the room and walked toward the elevator. At 5:59 P.M. he returned to Room 1332 carrying a brown paper bag. At this time, I and the other agents left Room 1335 and arrested Tolbert as he stood in the open doorway of Room 1332. Immediately after arresting Tolbert, I proceeded into Room 1332 where I observed Richard Geyer sitting inside Room 1332, and arrested Geyer. Immediately following the arrest of Geyer and Tolbert, I and other agents warned them of their constitutional rights and interviewed each of them. This interviewing process continued from approximately 6:05 P.M. until 6:50 P.M.

5. During the time that I and the other agents were interviewing Geyer and Tolbert, Special Investigators Bogan, Buckley and Doonan arrived at Room 1332 and gave me a copy of a search warrant signed by United States Magistrate Jacobs. When I had finished the interviewing process, I read the search warrant to Geyer and between 7:05 P.M. and 10:10 P.M. I searched Room 1332 and inventoried the contents thereof.

6. Upon initially entering Room 1332 at the time of the arrest of Tolbert and Geyer, I saw a large number of electronic devices on top of various pieces of furniture in Room 1332. I then opened a door in the wall of that room. Behind that door was a closet in which I saw, upon opening the door, a suitcase and certain electronic materials. Other than opening the closet door at the time of my entry into the room in order to determine whether any other persons were in the room, at no time prior to the actual execution of the search warrant at 7:05 P.M. did I touch, inspect, or examine any of the objects in Room 1332.

7. In preparing this affidavit, I have consulted my contemporaneous logs containing entries reflecting the precise time of some of these events.

ROBERT SCIGALSKI

Sworn to before me this 26th day of February, 1976.

MARIA A. MORALES

Notary Public, State of New York, No. 31-4521851

Qualified in New York County

Term Expires March 30, 1976

Pre-Trial Conference
Honorable Thomas Griesa
January 26, 1976

THE COURT: What kind of motions are we going to have?

MR. PUTZEL: There will be various motions to dismiss, which I would be happy to argue, but which really won't need extensive argument.

There will be a necessity for an evidentiary, I believe, with respect to the defendant Geyer's motion to suppress certain evidence that was seized from his hotel room.

MR. WRIGHT: The defendant Christopher's motion, also. I think we are primarily talking about a motion to suppress.

THE COURT: What motions have you made? Just give me a list of those.

MR. WRIGHT: Yes. I filed a motion to produce the informants, a motion to suppress, and if I may extend to the Court a list of those motions which have been filed, Judge --

THE COURT: Have you gone over discovery problems with the Government?

[4] MR. WRIGHT: We have gone over them, sir, and we have made some progress.

THE COURT: I may not have made it clear, but I should have: It is the practice here not to have written discovery motions at all, and, certainly, not until you have tried and failed on a voluntary disclosure basis with the Government. So I have got to assume that most of these will be academic after you have discussed the matter with the Government.

MR. PUTZEL: Your Honor, we have met with the Govern-

ment on several occasions. I want to place on the record that Mr. Davis has been more than forthcoming in providing us without the necessity of formal motions with ample information, and I don't anticipate any problems with him.

MR. WRIGHT: I don't anticipate any, if your Honor please, but the motion on discovery has not been complied with at this point.

MR. DAVIS: There are a few things that for logical reasons we have not given.

THE COURT: I cannot get into these written jotions. [sic]. I am going to mark all discovery motions denied without prejudice to renewal at a later point after you have discussed with the Government your problems, and if [5] there is anything that you really have failed to resolve we will consider those.

MR. WRIGHT: If your Honor please, because of some pending transactions between the Government and the defense I would urge the Court to hold those motions without any ruling until we present them at a later date.

THE COURT: It is a matter of form, but, at least, it gets the books clear. That is the way I do it, and that is as to the motion to disclose informants, the motion for production and inspection of grand jury minutes, motion for production and discovery of evidence, motion for witnesses' statements or reports in the nature of statements, motion for the production and inspection of evidence and information which may lead to evidence.

Now, what is this motion for a pretrial hearing

MR. WRIGHT: It is a request of the Court for an evidentiary hearing relating to some of the motions, primarily a motion to suppress.

THE COURT: Now, what is this motion as to co-defendants' pleadings?

MR. WRIGHT: I think that is premature at this point.

THE COURT: Well, we will put that with the pile we are going to deny without prejudice.

[6] Now, what about the motion for a severance and relief from a prejudicial joinder? Are you going to press that?

MR. WRIGHT: Yes, sir.

THE COURT: What are the grounds for a severance?

MR. WRIGHT: If your Honor please, just that the allegations of the two co-defendants are antagonistic to each other.

THE COURT: What is the Government's position on the severance?

MR. DAVIS: We oppose it. Among other reasons, part of our proof will be a tape recording between the two defendants essentially embodying their agreement, and I think that tape recording, among other things, will show that they really approached this in the same spirit and that their defenses will not be antagonistic. There are quite a few cases on the matter indicating when there is a conspiracy indictment that severances are frowned upon, because you are trying people who commit the same offense in the same way.

THE COURT: I will reserve on the motion for a severance until I get a clearer picture.

Then we have the motion to suppress. Now, on [7] the motion to suppress, is that something that can be taken care of at the very beginning of the trial?

MR. DAVIS: Let me say two things:

I am not convinced there needs to be a hearing at all. Certainly, as to Mr. Christopher's motion, which is the one we now

have, he is complaining about a search of another person's hotel room and has not alleged anything contained in these papers.

MR. WRIGHT: That is not correct. One of the seizures made were a group of papers seized from the room in question. The Government has conducted handwriting analysis and tests to seek to prove, I would assume, that some of these items are the defendant Christopher's writings.

THE COURT: It was not in Christopher's room?

MR. WRIGHT: No, it was not, and I would be glad to submit and ask leave to submit a brief which I already have in existence on this.

THE COURT: What if the Government goes in a room that is not a room of Christopher's and seizes some material that bear on him?

MR. DAVIS: I firmly take the position he does not have standing to complain of the intrusion into that room.

[8] THE COURT: We have to have the law on that.

MR. DAVIS: I will be glad to provide that.

MR. WRIGHT: I have that in existence, but not with me.

THE COURT: Why don't you file that?

MR. DAVIS: Mr. Geyer did have something of a proprietary interest in the room, and as to him there will not be a necessity for a hearing, unless Mr. Putzel is going to allege facts contrary to those in the affidavit.

THE COURT: What affidavit?

MR. DAVIS: There is an affidavit on the basis of which a search warrant was issued and on the basis of that search warrant we entered the hotel room and under the Culotta case the defendant has to allege a version of facts that would entitle him

to relief under the law before he is entitled to appear.

MR. PUTZEL: To summarize the affidavit very briefly, your Honor, which was filed as part of the complaint charging Mr. Geyer originally, the affidavit of the criminal investigator, John Buckley, attached to the United States Attorney's office — wait a minute. Let me back up for a minute — Investigator Buckley made a statement which was attached both to the search warrant application presented to Magistrate Jacobs and was [9] incorporated by reference in the complaint of Special Agent Robert Scigalski of the FBI, charging Mr. Geyer originally. That affidavit speaks clearly of an arrest without a search warrant and without an arrest warrant that was made upon Mr. Geyer. It is clear to me from the face of those papers that the arrest and search of his room were warrantless. I think there is, therefore, a clear issue of fact that has to be resolved at a hearing, first of all, as to the probable cause underlying the application for the warrant, if there was one, and, secondly, whether or not there was an arrest with a search warrant or a warrantless arrest and consequent search of the room, which would be prohibited under Schimel against California, and I think I can brief these matters within the week, and, as I say, I expect there will have to be a hearing.

THE COURT: Can't we have it at the beginning of trial?

MR. DAVIS: I believe we can avoid a hearing, and if not, we can have one at the beginning of trial. All parties would like to research their rights to appeal. If it is adverse to the Government, that could mean putting off the trial.

THE COURT: I think we ought to have it soon.

MR. DAVIS: I would prefer to have it in [10] advance of trial.

THE COURT: If it is going to be so crucial and you want to go up to the Court of Appeals.

MR. DAVIS: What I would suggest, if Mr. Putzel can get his papers in fairly soon, I really believe that the area of factual disagreement will not be that wide and we may be able to resolve it without a hearing. In fact, if we have to have a hearing, it can be done in an afternoon and it should be done in advance of trial.

MR. PUTZEL: That is satisfactory.

THE COURT: When do you think you can have your motion papers?

MR. PUTZEL: A week from Friday, if that is satisfactory, February 6.

THE COURT: February 6 for Mr. Putzel's papers, and then you want to reply to both these motions?

MR. DAVIS: Yes.

THE COURT: Mr. Wright, you should have your brief in.

MR. WRIGHT: Yes, I will, your Honor.

THE COURT: When can you respond?

MR. DAVIS: I asked for three weeks last time, but I will cut it down to two weeks.

THE COURT: You have until the 20th to respond, [11] and then we will see whether we have to have a hearing.

MR. DAVIS: Yes.

THE COURT: Now, I think the first day I can give you for trial would be April 26.

MR. DAVIS: That is fine.

THE COURT: How long do you expect this to take?

MR. PUTZEL: Well, I guess it is Mr. Davis to say.

MR. DAVIS: It is hard to say, your Honor, because there have been very few prosecutions under the statute. I would think that if Mr. Putzel and Mr. Wright and I can agree on a certain issue that we have tentatively agreed upon, it would be roughly a week, probably going into the second week.

MR. PUTZEL: Mr. Davis has asked us to stipulate to the testimony of a number of witnesses to a purported meeting at the Chemical Bank. None of these witnesses would testify as to what happened at the meeting; all they would do is testify that none of them gave their permission to have their voices recorded.

THE COURT: I am not with you.

MR. PUTZEL: The gist of the charge here is that the defendants Geyer and Christopher bugged a number of conversations, and Mr. Davis has to show that no one [12] consented to the recording at this meeting, and in order to do that he would have to call roughly 20 witnesses, some of whom are in England, who would testify that they never agreed to the recording of their voices. We have tentatively agreed that has nothing to do with our defense in the case. We have not signed on the dotted line.

MR. DAVIS: Then there is the stipulation about the Plaza Hotel.

MR. PUTZEL: You don't want anything with respect to the Plaza Hotel.

MR. WRIGHT: I would decline anything related to the Plaza Hotel.

MR. DAVIS: With that in mind I think, your Honor, we can keep it to a hair over one week.

MR. WRIGHT: I don't disagree with that. We are making

an effort to enter into any stipulations that can speed the trial.

THE COURT: That is fine.

MR. WIRGHT: I do submit to the Court that this matter on suppression is highly important and I do submit that we do need a hearing on that.

THE COURT: We will see about that.

MR. PUTZEL: There is one other matter that can be resolved here. In our earlier discussions with [13] the Government Mr. Davis predecessor disclosed to me the name of the informant in this case, one Franklin. I will not contend that I do not know his name, and I am putting his name on the record here for a purpose.

As my papers will show, and as the papers in the case show, Mr. Franklin was not an informant, but was a participant, and I would simply ask the Government to produce Mr. Franklin for the hearing, if the Court orders a hearing. He does not have to call him, but we will call him.

THE COURT: On the suppression motion? Well, you have notice of that. If we have a suppression hearing, will you be willing to do that?

MR. DAVIS: I would prefer at this point to put in my answering papers. I don't think I should be asked to, but I would like to think about it that long.

THE COURT: He will put his position in the answering papers. I think we are set.

MR. DAVIS: I take it we have not set a date for the hearing.

THE COURT: No, I think that is better.

MR. DAVIS: I don't think it will be very long, if we have one.

April 6, 1976

Honorable Judge Thomas P. Griesa
United States District Judge
United States Courthouse
Foley Square
New York, New York 10007

Re: United States v. Charles S. Christopher and
Richard Geyer 75 Cir. 854 (TPG)

Dear Judge Griesa:

As you will recall, this matter is set for trial April 26, 1976. Because of this rapidly approaching date I would, at this time, reurge our request to the Court, which was made by motion and orally, to have a hearing regarding the motions presently pending before the Court. For the reasons stated in the brief before the Courts, I feel that it is essential to present certain factual testimony in regard to those motions and further feel that such denial of such right will work insurmountable harm upon my client. I feel that this will primarily involve testimony relating to search and seizure which we feel is invalid.

Sincerely yours,

Frank S. Wright

FSW:gb

cc: Honorable Frederick T. Davis
Honorable Henry Putzel
Honorable Gilbert Rosenthal
Mr. Charles S. Christopher

FD:ko
75-1008

April 12, 1976

Hon. Thomas P. Griesa
United States District Judge
United States Courthouse
New York, New York 10007

Re: United States v. Christopher & Geyer
75 Cr. 854 (TPG)

Dear Judge Griesa:

I have on this date received a copy of a letter to the Court from Mr. Wright, counsel for Christopher, dated April 6, 1976, requesting a hearing in this matter because of the advancing trial date.

I join with Mr. Wright's request that a resolution of the pre-trial motions be had prior to trial, on the grounds that this would expedite the progress of the trial, as the Court and counsel agreed at the pre-trial conference on January 26, 1976. However, for the reasons stated in the Government's memorandum filed in this case, the Government does not believe that either of the defendants has shown grounds for a hearing. In particular, while Mr. Wright states that a hearing is "essential to present certain factual testimony," he has never alleged *any* set of facts that would entitle his client to relief, nor has he alleged *any* set of facts indicating that his client has standing to complain of any search.

Respectfully yours,

ROBERT B. FISKE, JR.
United States Attorney

By: FREDERICK T. DAVIS
Tel.: 791-0932

HENRY PUTZEL, III
Counsellor at Law
140 West 62nd Street
New York, New York 10023

Telephone: 212-956-7144

April 23, 1976

Hon. Thomas F. Griesa
United States District Judge
U. S. Courthouse
Foley Square
New York, N. Y. 10007

Re: *United States v. Christopher and Geyer*

Dear Judge Griesa:

I have received copies of the voluminous memoranda and correspondence recently submitted to the Court by the Government in connection with the above-captioned case. Because we are on the eve of trial in this matter, I am taking the liberty of responding by letter, rather than by more formal memoranda of law. I do so in order to supply the Court as expeditiously as possible with the substance of the defendant Geyer's positions with respect to the matters referred to by the Government.

1. With respect to the defendant Geyer's motion to dismiss because of selective nonenforcement of the law I should point out that the Government has — inadvertently, I am sure — drastically distorted the defendant's position. The gist of this case is that the Government is charging two private citizens with attempting to intercept private conversations by electronic means in violation of federal law. The defendant asserts that such prosecution is fundamentally unfair, not merely because of the "excesses of Watergate" — as the Government apparently assumes — but because the exact offense as that charged in this case has been committed repeatedly and with impunity by

government agents throughout the country over a period of years without one single prosecution for such violations. Specifically the F.B.I. has admitted literally hundreds of instances in which it has unlawfully used electronic devices to intercept private conversations without Court order. Such information is a matter of public record and has been documented by the Senate Select Committee on Intelligence. I read in today's *New York Times* that the final report of such committee is forthcoming next week; the disclosures have been a matter of public record for months. In light of the F.B.I.'s own concessions, it ill behooves another branch of the Department of Justice — the United States Attorney for this District — to assert that there has been no factual showing of such transgressions. I submit that the Court is fully entitled to take judicial notice (a) of the numerous violations of the federal wiretap statute by government agents; and (b) of the fact that not a single such violator has ever been prosecuted. Should the Court decline to take such judicial notice, the defendant seeks a full evidentiary hearing on this issue and asks that the Government produce at such hearing the same information which was supplied to the Senate Select Committee on Intelligence.

2. Again with respect to the above motion, I wish to stress that the defendant's claim is that the law is not being enforced against an entire class of violators and that, therefore, on equal protection and due process grounds, it should not be enforced against him. Such claim of selective nonenforcement does not require the showing of invidious or discriminatory motive which is required in the discriminatory prosecution cases referred to by the Government. The *Robinson* case, cited in my previous memorandum, stands squarely for the proposition that the Government should be barred from prosecuting private citizens if it commits identical offenses but confers *de facto* immunity upon transgressing agents. "Although charged with responsibility for full and fair enforcement, [the Department of Justice]

abused that power not only by enforcing the statute discriminatorily, but by seeking to shelter its own agents from prosecution. Failure strongly to censure discriminatory enforcement in such circumstances would likely breed greater disrespect for the law. The need for such action is all the more important where, as in the case of wiretapping, alternative methods of ensuring nondiscriminatory enforcement would probably be ineffective." Comment, Constitutional Law: Intentional Discriminatory Enforcement of Criminal Statute Held to Violate the Fifth Amendment, 55 Minn. L. Rev. 1234, 1243 (1971).

3. With respect to the question of whether the issue referred to above may properly be submitted to the jury, I differ strenuously with the Government's position that it may not. The issue raised by the defendant goes to the crux of this prosecution and is one appropriately submitted to the jury. In contrast to *People v. Utica Daw's Drug Co.*, 16 App. Div. 2d 12 (1st Dep't, 1972), cited by the Government in its memorandum, the Court of Appeals of the State of New York has held that a defendant seeking to raise a claim of discriminatory prosecution should be given latitude to prove the contention at trial. *People v. Walker*, 14 N.Y. 2d 901 (1964). See also, *People v. Winters*, 171 Cal. App. 2d Supp. 876, 342 P. 2d 538 (1959); *People v. Harris*, 182 Cal. App. 2d Supp. 837 (1960); *People v. Gray*, 254 Cal. App. 256, 63 Cal. Repr. 211 (1967). The gist of all of the above-cited cases is that the claim of selective enforcement is essentially an affirmative defense which may (and should) be raised at trial by the defendant in the same way, for example, as the defense of the statute of limitations, the entrapment defense and other defenses which do not go simply to the precise facts of the case but to the *bona fides* of the prosecution itself. Should the Court deny the defendant's motion to dismiss as a matter of law, it is his very strenuous contention that he is entitled as of right to have the jury hear evidence and argument on this issue.

4. With respect to the Government's intention to introduce so-called prior similar act evidence with respect to the defendant Christopher, I assume that such evidence will be offered against Christopher alone, since it is conceded that the acts do not concern my client. I therefore simply reserve my right to object to the admissibility of such evidence as against my client and, if necessary, to demand a severance or other relief if such remedy is justified by the proffered evidence. I do not believe it appropriate to discuss the admissibility *vel non* of such evidence as against Mr. Christopher.

5. With respect to the accuracy of the Government's proposed transcripts, I have been in touch with Mr. Wright, counsel for the defendant Christopher. He advises me that he is preparing a transcript which reflects our hearing of the tapes in question, copies of which have been furnished us by the Government. We shall submit such transcript on Monday and shall be prepared to raise the matter of the accuracy of the transcripts at the Court's convenience.

Finally, I should like to point out that, by raising in this letter the points set forth above, I do not wish to minimize the various arguments raised in the memorandum submitted with pre-trial motions. To the extent that the Court has any questions or concerns which I have not adequately discussed in these papers, I shall be happy to supply such information upon request.

Very truly yours,

HENRY PUTZEL, III

Counsel for the defendant

Richard J. Geyer

HP:am

cc: Hon. Frank S. Wright

Hon. Frederick T. Davis

Transcript of Plea of Guilty
Honorable Thomas P. Griesa
April 27, 1976

[2] (In the robing room)

MR. PUTZEL: Your Honor, as the Court knows both defendants are going to be entering guilty pleas in this case. We just as a housekeeping matter wanted to ask the Court for formal rulings on the pre-trial motions.

THE COURT: Okay. I have reviewed the motions and I was prepared to have a brief hearing before the trial started this morning, and take care of the motions. I think just so that there is nothing that I am missing, I think that you should probably list now for purposes of completeness the motions that the defendants are making and which of the defendants are making them, and I am prepared to rule, I am sure.

MR. PUTZEL: Your Honor, on behalf of the defendant Geyer I move to dismiss the indictment herein on two grounds, the first and foremost of which is that it is fundamentally unfair under the due process clause and on the ground of equal protection as well to prosecute any private citizen as long as the overnment is engaging repeatedly and without any criminal prosecution whatsoever in the exact crimes which are alleged in this case.

THE COURT: The selective prosecution motion, is that it?

MR. PUTZEL: Yes, as set forth in my papers.

[3] THE COURT: I am prepared to deny that motion as a matter of law.

MR. PUTZEL: The other ground is for the reason set forth in my papers I move to suppress all of the evidence in this case and to dismiss the indictment on the basis of an illegal search

and seizure by the FBI, as more fully set forth in my pre-trial motions.

THE COURT: I think that in very brief summary, I am denying the motion on the grounds that there was an arrest based on probable cause, the probable cause was based on a reliable informant, that the search incident to the arrest, namely a search of the person and a search of the immediate vicinity of the person and a search of certain other areas to see if there were people hidden, was perfectly proper; and that a warrant for further search was obtained which was a proper warrant. I think those are in very brief encompass the grounds for my denial of those motions.

MR. PUTZEL: Fine, your Honor. I have one or two other motions I think I should put on the record. I have moved also to dismiss this indictment on the ground that it was a violation of Mr. Geyer's due process rights for this case to proceed, in light of the fact that a government informant who has now been identified to the defendant as [4] one Frank Chin provided the contraband by which Mr. Geyer admitted the crime in question and will acknowledge having committed that. This case, a very similar fact situation is presently before the Supreme Court of the United States and is sub judice. I have cited it in my papers but I raise it for the record in case the Supreme Court should decide that in favor of the defendant.

THE COURT: I will deny that motion.

MR. PUTZEL: With respect to the final motion that was made in my papers, your Honor, that is to say the statement made by the — the admissibility of the statement made by Mr. Geyer at the time of his requirement before the United States, I am going to withdraw that motion in light of the fact that I would concede were it to be admitted in light of their guilty plea, that it would be harmless error, so I withdraw the motion.

And I simply ask your Honor that I be allowed to join in any and all motions made by Mr. Wright on behalf of Mr. Christopher.

THE COURT: All right. Mr. Wright.

MR. WRIGHT: If your Honor please, most of my motions have become moot also because of the proceedings here. I would urge the same motion, to allow me to adopt the pleadings of Mr. Geyer in this case, the co-defendant. Secondly, I would also urge and reurge my motion to suppress [5] the evidence respectfully related by the file. I have submitted the motion in several briefs.

THE COURT: Those motions are denied.

MR. WRIGHT: May I inquire as to the Court's ruling that the motion to adopt the co-defendant's pleadings is denied.

THE COURT: No. I will —

MR. WRIGHT: I'm sorry, I heard you say those motions. I didn't hear you say whether or not I can adopt the motions.

THE COURT: That was unclear. I think you better say specifically what you are moving even though it repeats, but I think there is a question of standing of Christopher to complain of a seizure in Geyer's hotel room.

MR. WRIGHT: If your Honor please, we have —

THE COURT: I don't think you have standing. I denied Geyer's motion. In any event, I would hold that you were not — that Christopher does not have standing to urge the alleged illegal seizure in the Geyer hotel room, so I will deny the motion to suppress evidence on that additional ground.

MR. WRIGHT: Plus the ground stated in response to Mr. Putzel's motion.

THE COURT: Yes.

[6] MR. WRIGHT: Why of course I would except to that. The other motion is to adopt the co-defendant's pleadings.

THE COURT: I don't know what that means.

MR. WRIGHT: Just to allow us to plead these together except in regard of course to the motion to suppress —

THE COURT: You mean the selective prosecution?

MR. WRIGHT: Yes, your Honor.

THE COURT: I think you certainly have standing to assert that and that motion is denied.

MR. WRIGHT: To which I except.

THE COURT: I don't think there is any other standing problem, so you have Mr. Geyer's motion, you are joining in them and they of course are denied. I think your record is clear.

Shall we proceed with the pleas.

MR. WRIGHT: Yes, your Honor. I don't know of course how far we are assuming in advance but I would ask for several weeks interim between the plea and reappearance.

THE COURT: I can certainly work that out. Normally it is six weeks between plea and sentence, and that allows time for a Probation report.

MR. ROSENTHAL: Both of these defendants are from out of town, Judge.

THE COURT: Is the six weeks the problem?

[7] MR. ROSENTHAL: I think it might be. Our man is from Dallas and it might present problems to the Probation Department in that they have to correspond with the Probation Department down there, possibly.

THE COURT: Six weeks is a long time. What did you have in mind?

MR. ROSENTHAL: Some time near the end of June, which would be possibly eight weeks.

THE COURT: I don't have any problem with that. We will make it towards the end of June.

MR. ROSENTHAL: One other thing that I think Mr. Wright intended to apply for, it is his intention to submit a pre-sentence memorandum in behalf of the defendant, and since he is in Dallas and our Probation Department will be submitting the pre-sentence report to you is here, he would ask the court for a direction to the Probation Department to furnish him with a copy of their report, except for their recommendation as to sentence, which we understand we are not entitled to see, by mailing it to him say ten days prior to the date of sentence.

THE COURT: Is there any problem with mailing? We usually don't have copies mailed out.

MR. ROSENTHAL: I know that. But as I say, he is in Dallas. While I am in New York and could look at the [8] report, I don't believe they will permit me to copy it.

THE COURT: Why don't you talk to the Probation Department. If there is any problem, I have no objection to that. If they raise any objection, you come and see me.

(End of robing room)

(Case called)

MR. DAVIS: The government is ready, your Honor.

MR. WRIGHT: Frank Wright of Dallas, Texas, ready for the defendant Christopher.

MR. PUTZEL: The defendant Geyer is ready also.

THE COURT: Mr. Wright.

MR. WRIGHT: If your Honor please, at this time we would

refresh the Court's memory that we have heretofore entered a plea of not guilty to the indictment as it reads. We at this time would ask the Court's permission to allow us to proceed to change our plea in regard to count 5 of the indictment only and to proceed to plead guilty to that count only.

THE COURT: All right. Can I question Mr. Christopher?

BY THE COURT:

Q How old are you, Mr. Christopher?

A 30.

Q Are you acting today of your own free will?

A I am.

[9] Q Have you been advised by your lawyers, Mr. Wright and Mr. Rosenthal

A I have.

Q Are you satisfied with their advice?

A Yes, sir, I am.

Q I take it you are not under the influence of any alcohol or drugs or under any mental disability which would prevent you from knowing what we are doing here this afternoon?

A Thats correct, I am not.

Q Have any threats or has any coercion been made to get you to plead guilty?

A No, sir, there has not been.

Q I'm sure gone over the charges with your lawyers, but for the record, I am obligated to summarize the charge in count 5, and I summarize it as follows:

Count 5 charges that on or about March 18, 1975, in this

judicial district you wilfully and unlawfully procured another person to use an electric device for intercepting private communications. And that the use of this device — the device transmitted communications by radio and interfered with the transmission of radio communications. This took place in the Plaza Hotel and the Chemical Bank. Are you aware of those being the charges in count 5?

[10] A Yes, sir, I am.

Q Have any agreements been made with the government in connection with the guilty plea?

MR. WRIGHT: May I address the Court in that regard?

THE COURT: Yes.

MR. WRIGHT: If your Honor please, in discussions with the government in this case we have agreed to plead guilty to count 5. In return, the government has dismissed the other pertinent count to defendant Christopher, namely two other counts, and further, not to prosecute Mr. Christopher any further for any acts contained in this factual transaction that we have at this time.

THE COURT: Is that right, Mr. Christopher?

DEFENDANT CHRISTOHER: Yes, sir.

THE COURT: Is that right, Mr. Davis?

MR. DAVIS: If your Honor please, there is a little bit more. As a technical matter the government would not dismiss the counts. Since we can't dismiss counts, we would not oppose Mr. Wright's moving to dismiss them at the time of sentence. We also have two further agreements, your Honor. One is that Mr. Christopher agreed to cooperate and testify against Mr. Geyer and that is what led, I think it is fair to say to Mr. Geyer's subsequent decision to [11] plead guilty. As a result of

that the government agreed to bring to your attention at the time of sentence the fact of his cooperation and what we believe its significance to be. In addition to that, I believe both Mr. Christopher and Mr. Geyer wish to retail [sic] for appeal the power to appeal the denial of the motions that they have made. The government has agreed that if they are successful on appeal and as a result of that or any collateral hearings here or afterwards either the indictment is dismissed or any evidence is suppressed they can withdraw their plea of guilty and go back to square 1 again. But I know that no further agreements other than those have been made.

THE COURT: Is Mr. Davis correct in his relation?

MR. WRIGHT: Yes, your Honor.

BY THE COURT:

Q Are you aware of that, Mr. Christopher?

A Yes.

Q Mr. Christopher, do you understand that if you plead guilty I am entitled to question you under oath and you are obligated to answer my questions truthfully subject to the penalty of perjury if you don't so answer; do you understand that?

A Yes, sir, I do.

[12] Q Do you understand that if you did not plead guilty you'd have a right to a prompt jury trial, do you understand that?

A Yes, sir.

Q And at that trial your attorneys would have the right to subpoena witnesses to testify for you and your attorney would have a right to cross-examine the government witnesses and you would have a right to sit silent without incriminating yourself

and the government would have to prove your guilt beyond a reasonable doubt to the jury; do you understand all that?

A Yes, sir.

Q Do you understand that the maximum sentence for count 5 is five years in prison and \$10,000 fine, and the exact sentence to be imposed within that limit is up to me to decide as the court, and I make no such decision or commitment until I have received a full report about you from the Probation Department; do you understand that?

A Yes, sir, I do.

Q In other words, what is that you did to commit the offense referred to in count 5?

A I hired a detective to watch a meeting in New York. I had knowledge that he would likely use electronic surveillance equipment in that assignment.

[13] Q This occurred where?

A At the Chemical Bank in New York.

Q What about the Plaza Hotel?

A Well, at the Plaza Hotel and the Chemical Bank.

THE COURT: I think that is sufficient.

MR. DAVIS: I have no quarrel with the factual allocution, your Honor.

Q After our discussion and your statement and all do you still wish to plead guilty to count 5?

A Yes, sir, I do.

THE COURT: I accept the plea, and I will set the sentencing date after I take the plea from Mr. Geyer.

Transcript of Sentencing Hearing
Honorable Thomas P. Griesa
June 29, 1976

[2] THE COURT: Does the government have any statements in the Christopher-Geyer case?

MR. DAVIS: I do, your Honor. I have two statements I would like to make, if I could.

First, your Honor, as you are aware, I sent a letter to the Court a week or so ago about cooperation by Mr. Christopher, which I ask your Honor to take into consideration.

With respect to Mr. Geyer, your Honor, yesterday he and his attorney came to my office at my request, because our office came into possession of some information that we thought Mr. Geyer could help us with, with respect to a totally unrelated case. Mr. Geyer spent, oh, I would say approximately an hour with me and with the FBI agent yesterday and was extremely helpful in answering all of the questions that we asked of him. Indeed, he later that day procured some documentary evidence with respect to what he had to tell us, which convinced me at least that everything he had to say was factually accurate.

The only further thing I would like to say, your Honor, is that I read with some care the presentence memorandum that there was in your Honor's office yesterday, and also the presentence memorandum filed by Mr. Christopher. I think if there is one matter as to which —

[3] THE COURT: You are talking about the presentence report?

MR. DAVIS: I am talking about the presentence report filed by the probation department —

THE COURT: Right.

MR. DAVIS: — and also the document prepared by Mr.

Wright on behalf of Mr. Christopher. There is one factual matter as to which the two miss, in a sense, and that is with respect to what Mr. Christopher asked be done in this case. Mr. Christopher's memorandum and his letter, which is included in the presentence report, indicated that he only came to know that something was going on with electronic equipment during the middle of the conspiracy. The presentence report refers to a taped transcript, which was provided to the probation officer. I ask that your Honor read that to make your own determination as to what was going on in his mind. Knowledge and intent is something that would have appeared at trial and is hard really to detail after a guilty plea. But I think that here it is a simple matter that your Honor could look at yourself.

Other than that, I have nothing further.

THE COURT: I know that there is a difference in the versions. You are suggesting that I look at the tape?

MR. DAVIS: Well, the probation officer referred to [4] an exhibit which she indicated she was attaching — I don't know whether she actually did or not — which is a transcript, a transcript of the tape. And she actually quotes from it in her presentence report. There are about two or three sentences in there which I suggst your Honor could review and make your own determination as to knowledge and intent from those sentences.

THE COURT: Maybe there is a mixup. I don't have that transcript. I am familiar with the material under the heading "Government's Version" in the presentence report, but I don't have the tape. Do you have it?

MR. DAVIS: Yes, I have a copy here that Mr. Wright, I am sure, is familiar with. May I show it to him first?

MR. WRIGHT: If your Honor please, I would like to be

heard in this regard before we start getting back into evidence. In fact, I object to Mr. Davis getting back into something that was to be disputed. It is a piece of evidence where there are two sides to the picture. I certainly at this stage don't object to both versions being before this Court. I think what Mr. Davis is saying is that we don't agree about one little aspect of the version of what happened. I object to getting back into that now, because they heard a tape one way, we heard a tape the other way. Both sides were prepared [5] to proceed to proof upon it. I don't —

THE COURT: Have you seen the government's transcript?

MR. WRIGHT: I have, your Honor.

THE COURT: You question its accuracy?

MR. WRIGHT: And I submitted to this Court and to Mr. Davis our version, and actually it is an argument over a particular word. But at this sentencing procedure I do object to us getting back into the arguments of the case, your Honor.

THE COURT: I don't think it is a matter of getting back into them. It is trying to find out what the facts were. Now, your client has given me a letter with his version of the facts.

MR. WRIGHT: Yes.

THE COURT: And it is of some importance to me to determine what the facts were about this incident. We are all familiar with the circumstances here. It is not a trial. But I have to learn what I can about the facts.

The material has been presented to me. I think I ought to have the tape and I will hear the — I don't mean the tape — I will take the transcript, and I will hear the arguments about any differences of interpretation. May I have that, please?

MR. DAVIS: Let me say two things, your Honor. First, this

copy is one prepared by Mr. Wright. He mentioned [6] he had submitted his own. And I am not appealing to this [sic] accuracy of this. Secondly, I am embarrassed that this came up at the last minute. This was given to the probation officer. She assured me it would be included in the report.

THE COURT: It may somehow have been sidetracked in my office, I do not know.

MR. DAVIS: I say that only because I don't want to be seen to be throwing something in at the last minute.

THE COURT: No. Hand it up.

Why don't we mark this Court's Exhibit A, so it is in the record? What parts of it do you dispute, Mr. Wright?

MR. WRIGHT: If your Honor please, we don't really dispute any of that conversation. There was a difference between what the government heard and what we heard in regard to conversation involving Mr. Christopher stating that he wanted to know what the government's version was, what the tenor of the conversations was, and we heard in the tape what the tenor of the conversations was.

THE COURT: Do you dispute the accuracy of the transcript?

MR. WRIGHT: The one that is before the Court?

THE COURT: Right.

MR. WRIGHT: No, sir.

THE COURT: Do you have anything further you wish to [7] present?

MR. DAVIS: No, your Honor.

THE COURT: Mr. Wright.

MR. WRIGHT: Thank you.

[33] DEFENDANT GEYER: Nothing. Absolutely nothing.

THE COURT: How about the Plaza Hotel?

DEFENDANT GEYER: The Plaza Hotel was actually not to listen into the next room but was to demonstrate the use of this equipment, and in order to have a transmitter and a receiver you have to have a closed door in between, otherwise you get a loud feedback like you have heard on loudspeakers and so forth.

MR. PUTZEL: Excuse me, your Honor, if I may.

(Conference between Mr. Putzel and defendant Geyer.)

DEFENDANT GEYER: I knew that Mr. Nodage [sic] was next door, yes. But the walls in the hotel are of double construction. There is a cement block, there is a hollow space, and then there is another wall. The instrument I used would not pick up any conversation in the other room.

THE COURT: Why did you go through this?

DEFENDANT GEYER: In order to show — what we were going to do actually was use a wearable transmitter.

THE COURT: Use a what?

DEFENDANT GEYER: A wearable transmitter. It was a small device, the size of a pack of matches.

THE COURT: Who was to wear it?

DEFENDANT GEYER: Mr. Christopher.

THE COURT: A wearable?

[34] DEFENDANT GEYER: Transmitter.

THE COURT: What was he supposed to do, go into the room where the meeting was?

DEFENDANT GEYER: Well, my understanding at the

beginning of the case was that he wanted to talk to some people and he wanted to make sure they did not change their mind later in a meeting. Now, it is perfectly legal in 1975, prior to October 1, for me to wear a trnasmitter or him to wear a transmitter, go to a meeting, and have somebody outside record the meeting, as long as the wearer is a party to the conversation. Now, we can't back up to another conversation.

THE COURT: I don't understand what this is. I am really getting very confused.

MR. PUTZEL: Let me see if I can unravel this, if I may, because I have been over the facts with Mr. Geyer for a fair amount of time.

As I understand it, it has always been unclear to me whether the suction cup in the closet adjacent to Mr. Nodage's [sic] room could itself transmit conversations from the room next door. For one thing, the walls were so thick in the Plaza that it is very likely that that would have been difficult.

There was no trespass into Mr. Nodage's [sic] room for the purpose of placing a room transmitter or bug or any other device [35] However, had a person gone into that room with a wearable transmitter on, which is a legal device as long as the wearing party consents to having it, there was some thought — and I think it was fuzzy as between Mr. Christopher and Mr. Geyer — that Mr. Geyer would intercept conversations there.

The obvious problem with that is that, although Mr. Geyer really didn't think it through, why would Mr. Christopher care to intercept conversations to which he was a party anyway? I think it is fair to say from the facts as we have gone through them with each other that there was an attempt, however inadequate, to intercept the conversations in that room, all again relating to this business transaction that Mr. Christopher spoke

about and efforts which were totally unsuccessful because of the structure of the building and because of the quality of the equipment.

THE COURT: Now, you were arrested buying equipment?

DEFENDANT GEYER: No, sir. I bought some equipment from a manufacturer here in New York who I had been buying from for six or seven years. And it came up to the Plaza. I was showing another person how this equipment worked in the room, to have a receiver; this was the purpose in the other room of having a suction cup. He heard a feedback, when he opened the door. He is an informer for the FBI for some reason or other, I don't know, and he went to them and said I [36] was bugging the Plaza Hotel.

THE COURT: All right, I guess I have t. Do you have anything further you wish to say?

DEFENDANT GEYER: No, sir.

THE COURT: Anything that anyone wishes to present further on the Christopher? Let me take a short recess. I will be back.

(Recess)

United States District Court for SOUTHERN DISTRICT OF NEW YORK

DEFENDANT

CHARLES S. CHRISTOPHER

DOCKET NO.

75 Cr 354

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government **Frederick Davis**
the defendant appeared in person on this date

MONTH DAY YEAR
June 29, 1976

COUNSEL

☐ WITHOUT COUNSEL

However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.

☒ WITH COUNSEL

Frank Wright and Gilbert S. Rosenthal

(Name of counsel)

PLEA

☒ GUILTY, and the court being satisfied that there is a factual basis for the plea,

☐ NOLO CONTENDER, ☐ NOT GUILTY

There being a finding/verdict of

☐ NOT GUILTY. Defendant is discharged

☒ GUILTY.

unlawfully wilfully and knowingly
procuring another person to use and
endeavor to use an electronic device to intercept private and protected oral
communications as charged in Count 5.

FINDING &
JUDGMENT

Defendant has been convicted as charged of the offense(s) of

18, USC, §2511(1)(b)(II), (iv)(A), and (iv)(B)

SENTENCE
OR
PROBATION
ORDER

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that

The imposition of sentence is suspended and defendant is placed on Probation for a period of TWO YEARS on Count 5. Defendant is also FINED \$10,000.00 COMMITTED FINE to be paid on or before September 30, 1976.

Counts 1 and 2 are dismissed upon motion by defendant's counsel with the consent of the Government.

SPECIAL
CONDITIONS
OF
PROBATION

BEST COPY AVAILABLE

ADDITIONAL
CONDITIONS
OF
PROBATION

COMMITMENT
RECOMMEN-
DATION

In addition to the special conditions of probation imposed above, it is hereby ordered that the general conditions of probation set out on the reverse side of this judgment be imposed. The Court may change the conditions of probation, reduce or suspend the period of probation, and a warrant and revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

SIGNED BY

☒ U.S. District Judge

☐ U.S. Magistrate

THOMAS P. GRIESA

Date June 29, 1976

It is ordered that the Clerk deliver a certified copy of this judgment (and commitment) to the U.S. Marshal or other qualified officer.

THIS DATE June 29, 1976

Tom Zangara

BY

☐ CLERK

☒ DEPUTY

CERTIFICATE OF SERVICE

I hereby certify that two copies of the foregoing joint brief and argument for Charles S. Christopher has been served upon Honorable Robert B. Fiske, Jr., United States Attorney and Frederick T. Davis, Assistant United States Attorney, at the United States Courthouse, Annex, One St. Andrew's Plaza, New York, N.Y. 10007

Frank S. Wright

Frank S. Wright